

Introductory Comment

E-Rate is a program designed to provide access to modern telecommunications and information services for students throughout the nation. Educational Service District 101 believes in the merits of the program and finds it•s success inspiring. The opportunities made available to students through E-Rate will have enormous educational benefits for years to come. It is with sincere gratitude that we thank our leaders for their insight into providing these benefits for students. Because we have a keen interest in the continued success of this program with greater accessibility to reach more students, we offer our comments regarding proposed changes. These comments were drafted by Educational Service District 101 Administrator, Dr. Shirley Bauer in consultation with Dr. Terry Munther, Educational Service District 101 Superintendent, and a sampling of local district superintendents.

It is important for the Commission to determine which sections of this program must have additional regulations. Program rules are already so very comprehensive and extensive that it is virtually impossible to stay abreast of current regulations, not to mention all of the proposed changes. Changes pose a real burden for entities to fully understand and to accurately follow the new or revised regulations. It adds confusion to the process. All efforts to simplify the process and make it more user friendly would improve the program, make it available to a greater number of students, and reduce abuse of the rules. It is on this premise that we address our specific remarks.

Paragraph 13•14 Eligible Services

The computerized list of eligible services proposed by the Commission is a good idea. If all the previously funded products and services could be included, which we understand has been compiled but unpublished, this would be an indispensable tool for applicants. A search component should be included for applicant use. The eligible services list should be completed and made available to applicants in a timely manner. Each year final decisions on eligible services have not been available until the last minute. This places applicants in a position of planning and filing materials immediately before deadlines. It could also provide an opportunity for challenges to be presented before the publishing of a final list.

Once a list is published, a change needs to be implemented which allows the Program Integrity Assurance team, upon review of the application, to call the applicant and discuss the eligibility of a questionable product or service. Many issues could be resolved and fewer appeals would need to be filed, as often it is just a difference in terminology. Furthermore, it would also be good public relations for School and Libraries Division to contact the applicant so they are forewarned there may be a rejection of the request. If the issue cannot be resolved between the applicant and PIA, another level should be available to avoid the long and lengthy process of appeals. The next level could be as simple as an application review by a supervisor. Only the questionable product or service would need to be analyzed. A comparison of previous years• applications to the current year would allow staff to question their decision and prompt more research on a particular product or service that they may deny. This would help support the goal of seeking to streamline and improve the program.

Additionally, telephone lines used for security should be eligible for discounts. These are essential to public health and are a top priority for schools and libraries. Support from the Commission would help assure that students are safe and secure in technologically enhanced classrooms.

Paragraph 16-20•WAN

It is not recommended that the Commission in the approach to fund and approve WANs implement a change. Much scrutiny occurred before issuing The Tennessee Order and this now appears to be a fair and equitable means of distributing discounts on the WAN related expenses.

Paragraph 21•Wireless Service

It is recommended that the eligibility for wireless services be extended to include all support staff, including student transportation. Thereby eliminating the principle of competitive neutrality that does not favor wire line technology over wireless technology. This will help to support the goal of decreasing abuse of regulations by acknowledging that a phone call is the same whether made from a cell phone or desktop.

Paragraph 22•Voice Mail Service

We support the inclusion of voicemail, a very viable means of communication in the educational field, as an eligible service. This too would streamline the application review.

Paragraph 24•Internet Access

If the package provides the most cost-effective Internet access, we would not recommend a change in the regulations.

Paragraph 25•Internet Content

The rules should remain •as is. •

Paragraph 26 •30% Benchmarks

We support the 30% benchmark. Entities would not intentionally add ineligible items to their requests. This procedure currently allows funding for all eligible products or services listed on the application, even if the entity mistakenly included an ineligible item. It appears a professional and respectful system and operates on the premise that applicants are honestly attempting to follow procedures. It is not believed that the Administrator should use this as a means to discontinue working with applicants on this topic as stated in FCC Document 02-6. Any and all communications between SLD and applicant are essential for good will and educating personnel to procedural nuances. This in turn furthers the goal of preventing abuse, which may occur due to a basic lack of information and knowledge about the continual changes that occur within the program.

Paragraph 28 and 29•Compliance with the Americans with Disabilities Act

It is highly recommended that applicants not be required to certify that the requested discounted services be in compliance with the Americans with Disabilities Act. The language found in Form 471 suffices. Currently,

entities are aware of, act upon, and comply with requirements of the Act; redundancy does nothing to further the goal of streamlining or improving the program. This proposed requirement could very well impose additional financial burdens on entities. It would only serve to discourage entities.

Paragraph 31-32•Consortia

There is support for changing the regulations pertaining to Consortia to a more fair and equitable system. An additional suggestion would be to review and condense requirements to eliminate the enormous amount of preparation time and paperwork. Most entities do not have the resources or time to devote to this very comprehensive process. It seems to directly contrast with the program goal of streamlining the process. Entities know that ineligible members of the consortia are not entitled to participate in the program.

Paragraph 33-34•Choice of Payment Method

The administrator should have rules specifying service providers must offer applicants the option of either making up-front payments for the full cost of services and reimbursement via the BEAR process, or paying only the non-discounted portion up front. This allows a •choice• for the applicant to make the decision that best meets their needs. It should also be noted that entities might be subject to their state regulations regarding the payment of invoices within certain time periods. Funding Commitment Letters are sometimes not distributed to the applicant by the beginning of the new funding year; therefore, it is not possible for the applicant or the service provider to know the amount of the discount. Applicants are aware and knowledgeable about this process and, in our opinion, to change it would not improve the program.

Paragraph 35-36•BEAR and Enforcement

We would recommend that SLD send the payment directly to the school or library once the BEAR is approved. This would eliminate the problem of establishing the proposed 10 or 20 day turnaround period. It would also eliminate all the time involved in calling service providers to track down the reimbursement checks. We would support the 10-day period over the proposed 20-day timeframe. It is necessary to have a timeframe. It seems only fair and equitable that an entity receives its funding as quickly as possible. Service providers that do not adhere to the regulations should be fined and listed as such on the website, so other entities will have this information when deciding upon their choice of service providers.

Paragraph 37-38- Equipment Transferability

The printed comments in FCC document 02-6 failed to identify the number or percentage of complaints. In response to Paragraph 37, this alternative is suggested for consideration. If it is proven that an entity is abusing elements of the program, that entity could be denied funding. If the entity feels aggrieved, an appeal could be filed. This process is in place and could be used to resolve the issue. Entities should not be subjected to additional complex regulations. The great majority of entities would not knowingly abuse the system and take the chance of losing funding.

Because of the rapid pace of technological changes and changing needs of districts and libraries, there must be permitted in this program some flexibility for them to make decisions that best serve students. Technology plans must go through an extensive approval process and govern how schools and libraries are implementing and managing their technology programs. This in combination with current codes should ensure that discounted internal connections are already subject to scrutiny and additional restrictions need not be implemented.

We do not support imposing more regulations on limiting transfers of equipment for three years from the date of delivery and installation. Nor do we support only being eligible for discounts on internal connections every few years. This is not consistent with the goals stated in FCC's Docket 02-6 of streamlining the program. It would not necessarily stop abuse, as it would be impossible to monitor. The broad categories of internal connections include many products supporting various services. How could the Administrator possibly track each piece of equipment, or would all internal connections be lumped into one category? For example, a PBX is a very different piece of equipment than a server. Most entities, especially those with a 90 percent discount do not have the money to order both pieces of equipment in one year; therefore, internal connection requests may be for different products or services in subsequent years.

Paragraph 41-47•Excess Service in Remote Areas

New regulations are not necessary; but a continuation of waivers of section 54.540(b)(2)(ii) should be granted based on need. This could be done on a case-by-case basis.

Paragraph 51•Appeals

We highly recommend that the timeline for filing appeals be increased to 60 days.

It should also be highly considered that the Administrator and the Commission establish timelines for responding to applicant appeals. Currently, there are no regulations governing how long the Administrator and the Commission has before taking action on an appeal. Others have suggested that response time could be the same 60 days for the Commission and the Administrator as it is for the applicants. When SLD or FCC does not act in a timely manner, applicants are basically •put on an operational hold.• This is a distressing position for applicants, budgets can not be completed, teachers and/ or staff may need to be released from their duties, and planning for technological and other improvements come to a stand still while waiting for a decision from SLD. This is an injustice to our students and does not coincide with program goals. This would be one action the Commission could take that truly would improve the program and benefit students.

Paragraph 52•Appeals Post Mark Date

We also ask that the Commission modify the rules so the postmark date is used as the benchmark for appeals instead of the date it was filed.

Paragraph 53-55•Funding Appeals

Successful appeals should be fully funded to the same extent that they

would have been funded in the initial application process had they not been denied funding.

Paragraph 56•Funding Appeals

Remaining funds from the current funding should be used before going into the next funding year. Funding of successful appeals need to be done more expeditiously to improve program operation.

Paragraph 57•Funding Appeals

Successful appeals should be fully funded in the order that decisions on appeals are issued.

Paragraph 58-59•Enforcement Tools-Independent Audits

We strongly disagree with the proposed suggestion that applicants must pay for independent audits. This would place an additional and unnecessary financial burden on all entities, small or large. It would further discourage applicants from participating in this program. Some entities have already decided the program returns are not worth the time and effort needed to file a 470, 471, 479, 486, and maybe 472•s for each service provider, respond to PIA, possibly file a 500, or perhaps an appeal. This does not take into account the time necessary for processing internal records and following up with collections from service providers.

Another point for consideration is that schools and libraries already go through extensive audit reviews on a systematic basis. For some, an additional audit would cost more than they receive in funding from the program.

Paragraph 60-62•Prohibitions on Participation

The Act and FCC Rules permitting the Commission to initiate forfeiture proceedings against those that willfully or repeatedly fail to comply with statutory and regulatory requirements are forceful and would be considered by most to be very effective. Once an entity is penalized, that should be the end of it. It should not be assumed that entities once guilty would continue to violate regulations. We would not support the proposal for additional rules and procedures. However, we would suggest the Commission provide funds for statewide training of individuals involved in the E-Rate process. The process of training appropriate personnel would be much more effective than limiting participation of individual or entities in the program.

Paragraph 65•Unused Funds

It is our experience that entities miss deadlines for filing required forms. The over abundance of paperwork and timelines pertinent to this program tend to discourage school and library applicants. Simplifying and eliminating some paperwork would enhance a greater percentage of disbursed funds.

Often SLD notices arrive in the summer months, when most small school districts employ few, if any, personnel on site. Employee turnover is another hurdle for districts. Most entities have only one person knowledgeable about E-rate, which creates tremendous problems when that

individual leaves or is unavailable during the summer months.

Another reason for the unused funds is the length of time it takes for appeals to be heard as well as payment of the funding requests once an appeal has been decided. See suggestions for appeal reform in response to Paragraph 51.

Applicants need the authority to choose how they wish to be reimbursed. When invoices are paid up front, a rule change allowing the money to be sent directly to the entity would eliminate waste and abuse.

Emphasis needs to be focused on increasing and improving the quality of the communication between SLD and schools and libraries. Any attempts and efforts to assist entities are helpful. More emphasis needs to be placed on developing the program with a more positive mode of operation. The goal to resolve issues should be the fundamental premise upon which the program operates. This would do much to eliminate the unclaimed funds and improve all aspects of the program.

Paragraph 70•Unused Funds

We support the distribution of all unspent funds from one year in the program to carry over in subsequent years of the program, in excess of the annual \$2.25 billion cap. Commissioner Michael J. Copps statement from FCC 02-6 says the Commission made clear that •all funding authority for a given year that is unused shall be carried forward into subsequent years for use in accordance with demand.• It is deemed very important to our schools and libraries that the entire Commission supports this interpretation of the ruling and funds would be carried over.

Conclusion

The opportunity to comment on the proposed changes presented by the Commission is appreciated. We thank you for considering our comments. We urge the Commission to evaluate carefully all comments in order to enhance a more practical and less complex system for applicants. To this end, more students will have equal technological opportunities available to them. Furthermore, the goals established by Congress for this program shall be met more efficiently and effectively.

Respectfully submitted this 27th day of March, 2002

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